



Opinion 432

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Opinion Title: 11/06/2002 Published In re Sorrell ; 02-28611, Judge Thurman 286 B.R. 798.

Body: The Debtors filed a bankruptcy petition under Chapter 12 of the Bankruptcy Code and moved for confirmation of their plan of reorganization. The Debtors proposed a plan wherein they surrendered one piece of real property to the secured creditor but kept another piece, providing for a twenty-year amortization of the remaining amount due under the secured claim. In addition, certain additional obligations were secured by personal property and were treated in the plan. The secured creditor objected on several grounds including that the Debtors did not meet the definition of family farmer as contemplated by Congress when drafting Chapter 12 and that the Debtors' plan was not proposed in good faith. The Court concluded the Flygare Chapter 13 factors of good faith are equally applicable in Chapter 12 cases and determined that if certain conditions were met, the plan met the good faith test as required under 11 U.S.C. § 1225(a)(3). See *Flygare v. Boulden* 709 F.2d 1344, 1347-48 (10th Cir.1983). In addition, the Court held that because the Debtors satisfied the criteria of the family farmer definition in the previous year that they could go forward under Chapter 12 despite evidence that the Debtors' current farming operations were minimal.

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Judge: [Judge William T. Thurman](#) [2]

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